

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

AIRSERV CORPORATION

and

**Cases 18-CA-118908
18-CA-124492**

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 26**

ORDER¹

The Employer's petition to revoke subpoena duces tecum B-717906 is denied.

The subpoena seeks information relevant to the matter under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Employer has failed to establish any other legal basis for revoking the subpoena.² See

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² The Region has indicated in its opposition brief that it offered the Employer an accommodation by agreeing that documents protected by the Transportation Security Administration or otherwise protected by federal laws need not be produced. In considering the petition to revoke, we have evaluated the subpoena as modified in this manner.

In addition, in denying the Employer's petition to revoke as to paragraphs 13 through 15 of the subpoena, we limit those paragraphs to the requested documents that are in effect currently and those that were in effect at any time within the 6 months preceding the Employer's commencement of operations at MSP airport in October 2013.

In voting to deny the Employer's petition to revoke, Member Johnson notes that the Employer's reply brief raises some nonfrivolous concerns regarding the Board's practice with regard to granting reasonable extensions of time for responding to discovery requests. In situations, such as that present here, where a party has represented to the Board that extenuating circumstances are interfering with its ability to compile information by a certain deadline, Member Johnson would urge the General Counsel to take a more lenient approach in granting reasonable extensions. Also, although Member Johnson finds that the General Counsel has satisfied relevancy concerns over the issue here, given the extant precedent on NMB deferral, see *United Parcel Service*, 318 NLRB 778 (1995), in the event that the General Counsel seeks

generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

Dated, Washington, D.C., October 17, 2014

MARK GASTON PEARCE,	CHAIRMAN
HARRY I. JOHNSON, III,	MEMBER
NANCY SCHIFFER,	MEMBER

future information from the Employer in furtherance of some new deferral test, Member Johnson would also urge that the General Counsel clearly spell out to the Employer what that test is, so the Employer can adjudge whether or not a petition to revoke on relevance grounds is warranted.